

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
CLERK'S OFFICE

JUL 7 2004

ERICSON BENJAMIN

Plaintiff,

v.

FRANKLIN COUNTY JAIL, et al.

Defendants.

CIVIL ACTION

NO. 043 CV 0049-KPN

U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

04 CV 30049-KPN

THE DEFENDANT FRANKLIN COUNTY JAIL'S MOTION TO DISMISS

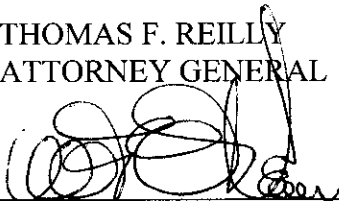
Pursuant to the provisions of Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Defendant Franklin County Jail moves this Court to dismiss the above-entitled action for failure to state a claim upon which relief can be granted.

In support of such Motion, the Defendant states that the Eleventh Amendment of the United States Constitution bars a suit in federal court against a state or its agencies. The Defendant incorporates by reference its Memorandum of Law in Support of its Motion as if expressly set forth herein.

WHEREFORE, the Defendant Franklin County Jail respectfully requests that the above action be dismissed for failure to state a claim upon which relief can be granted.

Respectfully submitted,
Commonwealth of Massachusetts
By Its Attorney,

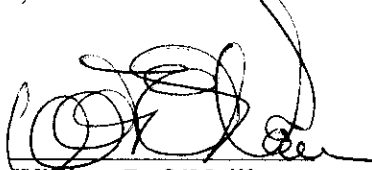
THOMAS F. REILLY
ATTORNEY GENERAL



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CERTIFICATE OF SERVICE

I, William P. O'Neill, Assistant Attorney General, Western Massachusetts Division, 1350 Main Street, Springfield, MA 01103-1629 do hereby certify that on July 6, 2004, I caused the foregoing Defendant Franklin County Jail's Motion to Dismiss and the Defendant Franklin County Jail's Memorandum of Law in Support of Its Motion to Dismiss to be served upon the parties in this action by mailing a copy of the same, postage prepaid, first class mail to the Plaintiff Ericson Benjamin, Pro Se, 160 Elm Street, Greenfield, Massachusetts 01301

A handwritten signature in black ink, appearing to read 'William P. O'Neill', is written over a horizontal line.

William P. O'Neill
Assistant Attorney General